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BEFORE THE
Federal Communications Commission
Washington, D.C

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telecommunications Services) CS Docket No. 95-184
Inside Wiring)
)
Customer Premises Equipment)

COMMENTS OF ADELPHIA COMMUNICATIONS CORPORATION

Adelphia Communications Corporation ("Adelphia") hereby submits the following comments in response to the above-captioned Notice of Proposed Rulemaking released by the Federal Communications Commission ("Commission") on January 26, 1996.^{1/} Adelphia, through its cable subsidiary, Adelphia Cable Communications, operates cable television systems across the nation.

- 1. It is beyond the Commission's current statutory authority to alter the demarcation point in multiple dwelling units ("MDUs") in any manner such that cable operators are required to cede ownership of their internal distribution infrastructure.**

Adelphia respectfully submits that extending the cable point of demarcation to a point far outside the resident's dwelling unit in MDUs is well beyond the scope of authority given to the Commission in Section 16(d) of the 1992 Cable Act. The provision expressly states that;

the Commission shall prescribe rules concerning the disposition,
after a subscriber to a cable system terminates service, of any

^{1/}Telecommunications Services Inside Wiring, Customer Premises Equipment, Notice of Proposed Rulemaking, CS Docket 95-104, FCC 95-504, ___ FCC Rcd ___ (rel. Jan. 26, 1996) ("NPRM").

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cable installed by the cable operator within the premises of such subscriber.^{2/}

This language could not be more clear; the Commission is prohibited from adopting rules forcing cable operators to turn over inside wiring prior to termination, and the Commission's authority applies only to wiring within the customer's premises. Wiring located outside the customer's premises, for example in MDU common areas, is not within the Commission's jurisdiction and the Commission does not possess the authority to force cable operators to cede control over that portion of their distribution plant.^{3/}

In addition, adoption of any such rules that compromise cable operators' ability to retain exclusive control over their distribution networks within MDUs also compromises cable operators' ability to offer other non-video delivery services in competition with other facilities-based telecommunications providers, principally incumbent local exchange carriers. If cable operators ability to access MDU residences is inhibited because competing service providers take over their coaxial wiring, the cable operators lose not only the opportunity to deliver video programming, but local exchange, Internet access, and data services as well. The Commission must not adopt any rule that in effect destroys a cable operator's ability to compete on a facilities based level with the incumbent telephone carriers.

^{2/}47 U.S.C. § 544(i) (emphasis added).

^{3/}Not only is application of the home wiring rules prior to termination of cable service beyond the scope of the Commission's jurisdiction, but adoption of such rules would cause constitutional problems as well. Cable home wiring is the personal property of the cable operator. Home wiring rules that force cable operators to cede ownership of any portion of their MDU wiring without compensation are a violation of the cable operators' fifth amendment rights. See Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982).

2. **The existing cable and telephone demarcation points in single family homes can best be "harmonized" at a single demarcation point located on either side of where the wiring enters the single-family dwelling.**

While Congressional directives for the Commission to foster facilities-based competition necessitates that there be no change in the current broadband point of demarcation in MDUs, Adelphia encourages the Commission to create a single common demarcation point for all telecommunications wiring entering single family homes. The current disparity in the cable and telephone single family home wiring demarcation points is not related to any relevant difference between the two services or the facilities used to deliver such services, and is rather a product of the separate proceedings used to implement such rules. With direct competition between traditional cable and telephone providers becoming a reality, Adelphia believes that these two sets of rules should now be harmonized at a point at or about twelve inches on either side of where the wiring enters the dwelling. Such a change effectively levels competing providers' ability to access inside wiring, and thereby promotes facilities-based competition.

Apart from the precise location of the new demarcation point, Adelphia foresees a practical difficulty as numerous telecommunications providers attempt to interconnect existing single family home inside wiring with their networks. Existing wiring inside most single-family homes is simply not designed to accommodate multiple service providers and frequent customer movement among providers. Attempts by non-incumbent providers to splice into the existing wiring will likely result in 'rat's nests' of wiring at the respective broadband and narrowband demarcation points. For example, consumers desiring service from competing telephone service providers, including cable operators, may want to utilize the second unused pair of wiring in the existing twisted pair telephone wiring by allowing the new provider to

route the spare pair to its own network. However, the existing wiring and protector/network interface unit ("NIU") are not likely to easily accommodate such access. The wiring is likely neither long enough nor adaptable enough to simply unplug it at the demarcation point from the incumbent carrier's NIU and connect it to new service provider's network interface.

3. Any changes in the cable demarcation point rules require that the respective rights and duties of competing providers be clearly defined.

With facilities-based competition, the existing rights and responsibilities of competing providers are doomed to lose coherency. Adelphia proposes that any change in the inside wiring rules must be accompanied by changes in the rights and responsibilities of telecommunications providers. For example, Adelphia believes that in a facilities-based competitive marketplace, a provider of service carried over a coaxial network should retain the right to control and establish charges for the number of outlets connected to that provider's network.

In addition, each provider should be responsible for maintaining technical standards only for their network and should not have responsibility to maintain or repair competing providers' networks. For example, if a cable operator no longer maintains complete control of wiring within customer's premises, it will necessarily lose the ability to fulfill its duty to prevent signal leakage, and it should not remain responsible for poor signal strength and quality, or other maintenance of the wiring on the customer's side of the demarcation point. Adelphia therefore suggests that if the Commission adopts changes to the demarcation point rule, the cable operator's responsibility for signal leakage, strength and quality should cease at the demarcation point.

Additionally, competing providers should not have access to spectrum within the same home wires. Allowing such shared use will artificially inhibit facilities-based competition in that it will constrain all providers' willingness to invest in new facilities and develop new services. Today, providers willingly develop additional spectrum within their distribution facilities because they are safe in the knowledge that they will not lose the spectrum to a competitor because they did not deploy in that spectrum immediately. For example, cable operators often rebuild their systems to the highest technology available to take advantage of economies of scale. Though an operator may deploy a 750 MHz system, it may not "fully load" the system with programming, saving the excess capacity for future services. Such pro-competitive deployments will be hampered if a competing provider has the right to usurp an "unused" portion of the spectrum within existing facilities.

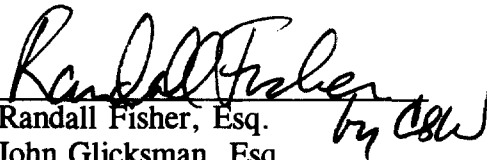
Competition equally will be hampered if providers are required to share their wires because of the cost of maintaining signal integrity. While a competitor may be able to "use" a portion of the "unused" spectrum, the signal will degrade for the host user and unfairly force it to make additional investments to improve signal quality that would not otherwise be necessary.

Finally, the signal leakage, strength and quality responsibilities currently imposed on cable operators should also be extended to cover all broadband telecommunications providers. Adelphia proposes that each service provider be required to use a separate signal leakage tracking identification method, allowing such providers to quickly identify which particular network and wiring is causing leakage, and thereby identify and cure the problem. We expect that the providers themselves will coordinate this identification mechanism and that the Commission will not have to impose one.


Adelphia believes the aforementioned changes in the Commission's rules should be adopted and are essential to building real facilities-based competition.

Respectfully submitted,

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